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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,147	09/29/2003	James J. McGrath III	A-1583con	1917
33197	7590	03/22/2006		
STOUT, UXA, BUYAN & MULLINS LLP 4 VENTURE, SUITE 300 IRVINE, CA 92618			EXAMINER SLACK, NAOKO N	
			ART UNIT	PAPER NUMBER
			3635	
DATE MAILED: 03/22/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,147

Applicant(s)

MCGRATH, JAMES J.

Examiner

Naoko Slack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-22 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-12, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/29/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

In response to applicant's election of Group I, claims 1-6, 8-12, 21 and 22 have been examined. Claim 7 has been canceled as amended. Claims 13-20 are drawn to non-elected invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,755,480 to Bryan.

Claim 1:

Bryan discloses an apparatus comprising an access panel including a door (10), a frame peripherally surrounding the door, the door being attached to the frame, and a cage (2, Figure 6) attached to the access panel frame, the cage having a plurality of openings (9) for ensuring fluid communication between an interior portion of the cage and a surrounding space.

Claim 2:

The cage comprises expanded metal (column 2, line 52).

Claim 6:

The cage is welded to the frame (column 3, lines 59-62).

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Claim 21:

The cage comprises rear walls (18, Figure 6) and side walls (5, Figure 6), all walls including a plurality of openings (9).

Claims 1, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4,161,198 to Sojka.

Claim 1:

Sojka discloses an apparatus comprising an access panel including a door (left, Figure 1), a frame peripherally surrounding the door, the door being attached to the frame, and a cage attached to the access panel frame, the cage having a plurality of openings for ensuring fluid communication between an interior portion of the cage and a surrounding space.

Claims 8 and 9:

The apparatus further comprises a metal shelf (attached to side walls of cage, Figure 1).

Claims 1, 3-5, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 6,318,296 to Nguyen.

Claim 1:

Nguyen discloses an apparatus comprising an access panel including a door (60), a frame peripherally surrounding the door (walls of structure 20), the door being attached to the frame, and a cage (110, Figure 2) attached to the access panel frame,

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the cage having a plurality of openings (best shown in Figure 3) for ensuring fluid communication between an interior portion of the cage and a surrounding space.

Claims 3-5:

The apparatus comprises an environmental sensing device comprising a smoke and heat detector (column 3, lines 5-9).

Claim 22:

The access panel is a fire door (abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4,161,198 to Sojka.

Claim 10:

While Sojka discloses a shelf with bars, Sojka does not disclose that the shelf is comprised of expanded metal and welded to the cage; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to weld an expanded metal shelf to the cage, as an expanded metal shelf would serve the same

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function as Sojka's bars, permitting animal waste to fall to the lowest level of the cage for removal.

Claims 11 and 12:

While Sojka does not place an environmental sensing device, such as a thermometer, under the shelf in the cage, the use of thermometers inside of pet cages is very well known in the art for insuring that the ambient air is kept at a habitable temperature for the contained animal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mount a thermometer on the undersurface of the shelf to monitor the cage temperature. Mounting the thermometer on the under surface of the shelf would keep it out of the way of the animal.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naoko Slack whose current telephone number is 571-272-6848. The examiner can normally be reached on Mon-Fri (6:00 am-2:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naoko Slack
Primary Examiner
Art Unit 3635

NS
March 16, 2006